

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

HARTMAN TELEPHONE )  
EXCHANGES, INC. )

File No. \_\_\_\_\_

Petition for Limited Waiver of the )  
Federal Communications Commission's Rules )  
Concerning Administration of the North )  
American Numbering Plan )  
Carrier Identification Codes (CICs) )

CC Docket 92-237

To: Common Carrier Bureau

**PETITION FOR LIMITED WAIVER**

Hartman Telephone Exchanges, Inc. ("Hartman" or "Petitioner"), by its attorney, respectfully requests a limited waiver of the January 1, 1998 deadline for the transition to four digit Carrier Identification Codes ("CICs") and any attendant customer education requirements established in the above-captioned proceeding. Petitioner requests additional time to comply with the requirement that a carrier have four digit CIC capability. Petitioner is a small local exchange carrier which became an equal access provider in 1995. Hartman upgrades switch hardware and reprograms operating systems software as needed. However, in its rural service area cost considerations are primary, and few customers request custom calling features.

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As demonstrated herein, good cause exists for this waiver<sup>1/</sup> because, through no fault of Petitioner, it may be technically and economically infeasible for Petitioner to comply with the January 1, 1998 deadline for conversion to the four digit CIC capability. Accordingly, Petitioner requests an extension of time to implement four digit CIC capability.

### **Background and Facts**

On April 11, 1997, the Federal Communications Commission adopted its *Second Report and Order, In the Matter of Administration of the North American Numbering Plan Carrier Identification Codes (CICs), Petition for Rulemaking of VarTec Telecom, Inc.* CC Docket No. 92-237, FCC 97-125 released April 11, 1997 ("Second Report & Order"), which set a January 1, 1998 deadline for all carriers to transition to four digit Feature Group D CICs. This Second Report & Order shortened the anticipated deadline from the year 2000 to January 1998.<sup>2/</sup>

In April 1997 as soon as the Second Report & Order was released, Petitioner made efforts to assess what steps it needed to take to meet the January 1, 1998 deadline. Petitioner determined that in order for it to be able to have four digit CIC capability, it must upgrade the existing

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<sup>1/</sup> "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>2/</sup> *Second Report & Order* at para 4. The deadline had previously been extended from 1995 to 2000, so Petitioner had anticipated a six year transition period.

operating systems software (and purchase additional equipment) for its Northern Telecom ("Nortel") switches so that the switches can support the four digit CICs.

Hartman serves three exchanges, and a total of approximately 450 access lines, in Danbury, Haigler and Lebanon, Nebraska. Nortel DMS 10 switches are located in Danbury and Haigler, while Lebanon is served by a remote switch hosted by the switch in Danbury. The exchanges are located on the Nebraska/Kansas border, and some of Hartman's subscribers are located in Kansas. This special circumstance requires Hartman to function with an interchangeable numbering plan area ("INPA").

The exchanges are currently operating on release version 405.10 of the operating systems software, which does not have four digit CIC capability. But Hartman is making good faith efforts to purchase an updated release of the operating system software necessary to accept the four digit CICs, and to acquire the equipment which would be necessary to operate the updated software. In fact, after months of negotiation, Petitioner has signed a contract with Nortel to upgrade to release version 406.10 with INPA capability. However, Nortel informs Petitioner that the delivery date is uncertain because Nortel is overwhelmed with upgrade requests. It is doubtful that Hartman's upgrades will be installed by January 1, 1998.

Petitioner has considered alternatives such as the purchase of new switch equipment from other manufacturers, but the cost is not economical for a small company, and the process would require many more months of time. It is therefore more practical for Hartman to implement the Nortel upgrades, which it estimates may take up to six to nine months to complete.

**Request for Waiver**

Petitioner requests a limited waiver of the January 1, 1998 deadline to transition to four digit CICs so that it has the time it needs to receive and install Nortel software and equipment upgrades. As the Commission is aware, alternative switch equipment and required operating system software would be prohibitively expensive for a small and rural LEC such as Petitioner. Hartman's compliance with the January 1, 1998 deadline for transitioning to four digit CICs would be technically and economically infeasible.

The Commission has previously recognized the technical and economic burden on small and rural LECs in purchasing software upgrades. In its December 10, 1995 Caller ID Order, the Commission issued a stay of its per call block and unblocking requirements in response to waiver petitions from several LECs, including small rural LECs, that claimed that providing blocking and unblocking was technically and economically infeasible.<sup>3/</sup> Waiving Petitioner's requirement to meet the January 1, 1998 CIC compliance deadline will benefit its customers, in that a technically and economically feasible transition plan is already in motion. Petitioner will avoid passing on to customers the exorbitant cost of changing equipment and software (if such a change were possible as a means to meet the deadline).

Therefore, Petitioner submits that grant of a waiver of the transition deadline in this instance will benefit the public interest.

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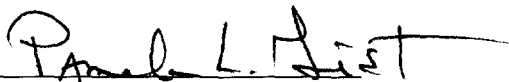
<sup>3/</sup> *Order and Fourth Notice of Proposed Rulemaking*, 10 FCC Rcd 13796, 13808 (1995).

**Conclusion**

For the reasons explained, Petitioner requests a limited waiver of the January 1, 1998 deadline for implementation four digit CICs. Petitioner requests that a limited waiver be granted and an extension given until July 1, 1998. The public interest benefit in this case equals or exceeds that which the Commission has found in other instances to be sufficient for waiver. Accordingly, Petitioner requests that a waiver and extension be granted as proposed.

Respectfully submitted,

**HARTMAN TELEPHONE EXCHANGES, INC.**

By:   
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## DECLARATION

I, Leo Hartman, hereby state and declare:

1. I am President of Hartman Telephone Exchanges, Inc., a local exchange carrier in Danbury, Nebraska.
2. I am familiar with the facts contained in the foregoing Petition For Limited Waiver, and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts which are subject to official notice by the Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6 day of October, 1997.

A handwritten signature in black ink, appearing to read "Leo Hartman", written over a horizontal line.

Leo Hartman, President  
Hartman Telephone Exchanges, Inc.

## CERTIFICATE OF SERVICE

I, Michael D. Hunter, of Lukas, McGowan, Nace & Gutierrez, Chartered, hereby certify that on this 9th day of October, 1997, a copy of the attached "Petition for Limited Waiver" was hand delivered to the parties listed below:



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